IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15004 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

INDIRA GANDHI PARK SOCIETY LTD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 15004 of 2003

MS BANNA S DUTTA for Petitioner No. 1

MR LB DABHI, ASST. GOVERNMENT PLEADER for Respondent No. 1

MR RR MARSHALL for Respondent No. 2

MR YN RAVANI for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 24/02/2004

ORAL JUDGEMENT

RULE. Service of rule is waived by learned AGP Shri L.B. Dabhi for respondent No. 1, by learned advocate Shri R.R. Marshall for respondent No. 2 and by learned advocate Shri Y.N. Ravani for respondent No. 3. At the request of the learned advocates, the petition is finally heard today.

2. The grievance ventilated in the petition by the petitioner society is that possession of the Final Plot, which has been allotted to the petitioner society, in pursuance of Town Planning Scheme No. 30 (Asarwa), Ahmedabad, is not being given to the petitioner society by respondent No. 2-Corporation. It has been prayed that possession of the Final Plot must be given by respondent No. 2 to the petitioner. It has been submitted by the learned advocate appearing for the petitioner that certain encroachments have been made on the said plot and it is the duty of respondent No. 2 to remove the encroachments and hand over possession of the plot to the petitioner-society.

3. In pursuance of notice issued by this court, learned advocate Shri Marshall has appeared for respondent No. 2 and has submitted that encroachments had been made on the land in question and respondent No. 2 had removed some of the encroachments and had offered some portion of the said plot to the petitioner society, but the petitioner society had insisted that possession of the entire plot should be given to it at a time. It has been submitted by learned advocate Shri Marshall that one of the encroachers, Shri Rajaram Koshti, has filed Civil Suit No. 1646/98 in the City Civil Court, Ahmedabad, and by virtue of an interim order passed in the suit, respondent no. 2 has been restrained from taking possession of the land encroached upon by him. It has been submitted by him that all possible efforts shall be made to remove the encroachments as soon as possible and possession of the land shal be given to the petitoner society.

4. Learned advocate Shri Marshall has also submitted that respondent No. 2 Corporation shall do the needful for getting the stay granted in favour of one of the encroachers removed at an early date. If necessary an application shall be submitted to the concerned court so that hearing of the suit can be expedited and the stay be vacated. Learned advocate Ms. Banna Datta has submitted that the petitioner society shall also file an application for joining as a party in the said suit as the petitioner society is very much interested in the

subject-matter of the suit.

5. In pursuance of instructions received from the Chairman of the petitioner society, learned advocate Ms. Banna Datta has submitted that the petitioner society shall take possession of the land, which has not been encroached upon, if possession thereof is given by respondent No. 2 Corporation, and in future, as and when encroachment is removed, the petitioner society shall take possession of the land over which encroachment has been removed.

6. In view of the above statements made, the petition stands disposed of as allowed. Rule is made absolute to the above extent with no order as to costs.

(A.R. Dave, J.)

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